# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## SPECIAL CIVIL APPLICATION No. 5459 of 1999

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE KS JHAVERI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**JB STEEL CORPORATION - Petitioner(s)**

**Versus**

**RAMMANOHAR RAMPAYARE GUPTA - Respondent(s)**

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**Appearance :**

MR RA MISHRA for Petitioner No(s).: 1.

RULE SERVED for Respondent No(s).: 1.

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**CORAM : HONOURABLE MR.JUSTICE KS JHAVERI**

**Date : 23/08/2005**

**ORAL JUDGMENT**

1.0 The petitioner has prayed to quash and set aside the award dated 26.02.1999 passed by the Labour Court,

Rajkot, in Reference No. 1591 of 1984, whereby the said reference was allowed.

2.0 The brief facts of the case are that the respondent herein was working as a Labourer with the petitioner Corporation for about three years before the dispute in question came to be raised. It was alleged by the respondent that he was a workman of the petitioner and that on demanding the minimum wages, his services were terminated in the year 1984. Against the said order, the respondent raised a reference, which was initially dismissed for default and was then restored in the year 1991. Thereafter, the Labour Court by impugned award dated 25.02.1999 allowed the said reference as aforesaid. Hence, this petition.

3.0 Mr. R A Mishra learned advocate for the petitioner has contended that in spite of the fact that a specific contention was raised before the Labour Court that the respondent had never worked with the petitioner, the Labour Court ignoring the said fact, has allowed the reference. He has submitted that there never existed a master - servant relationship between the petitioner and the respondent herein. He has, therefore, submitted that

the impugned award of the Labour Court is illegal and perverse and deserves to be quashed and set aside.

4.0 While admitting the matter, this Court had stayed the implementation of the impugned award. Though served none appears on behalf of the respondent. I have heard learned counsel for the petitioner and perused the documents placed on record.

4.1 The contention raised by the learned advocate for the petitioner is required to be accepted inasmuch as while considering the case of the petitioner, the Labour Court has not taken into consideration the fact that the respondent workman himself has stated in his cross-examination that he was working with one Bharmal Group and that on account of the dissolution of the partnership firm, he was retrenched.

4.2 In above view of the matter, I am of the opinion that the Labour Court ought not to have concluded that the respondent has worked with the petitioner Company. Hence, the impugned award of the Labour Court deserves to be quashed and set aside.

5.0 For the foregoing reasons, the petition is allowed. The impugned award dated 26.02.1999 passed by the Labour Court, Rajkot, in Reference No. 1591 of 1984, is quashed and set aside. Rule is made absolute accordingly with no order as to costs.

(K. S. JHAVERI, J.)

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